

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROBERT BOWEN,

Plaintiff,

v.

BALDWIN UNION FREE SCHOOL
DISTRICT and THE BOARD OF EDUCATION
OF THE BALDWIN UNION FREE SCHOOL
DISTRICT,

Defendants.

AZRACK, United States District Judge:

On February 9, 2018, defendants filed a motion to dismiss plaintiff's Second Amended Complaint. The Court had previously referred any such motion to Magistrate Judge Gary R. Brown for a Report and Recommendation ("R&R"). On August 31, 2018, Judge Brown issued his R&R, recommending that: (1) defendants' motion to dismiss plaintiff's claims for unpaid overtime pursuant to the FLSA and NYLL be denied; (2) defendants' motion to dismiss plaintiff's gap-time claim pursuant to NYLL §§ 198(1-a), 663 be denied; (3) defendants' motion to dismiss plaintiff's N.Y. Civ. Serv. Law § 80 claim be denied; and (4) defendants' motion to dismiss plaintiff's state law claims accruing before November 2, 2014 be granted.

The R&R advised that the parties have fourteen (14) days from service of the R&R to file objections, and that failure to file objections within fourteen (14) days would preclude further review of the R&R either by the District Court or Court of Appeals. No objections to the R&R have been filed.

ORDER

15-CV-6829 (JMA) (GRB)

**FILED
CLERK**

9/21/2018 1:56 pm

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

In reviewing a magistrate judge's report and recommendation, the court must "make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made." 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "However, where no objections to the Report and Recommendation have been filed, the district court 'need only satisfy itself that that there is no clear error on the face of the record.'" Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd., 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011) (quoting Urena v. New York, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001)).

As noted above, no objections have been filed to the R&R and the time for objections has passed. The Court has reviewed the R&R for clear error and finding no such error, adopts Judge Brown's R&R in its entirety as the opinion of the Court. Accordingly, the Court: (1) denies defendants' motion to dismiss plaintiff's claims for unpaid overtime pursuant to the FLSA and NYLL; (2) denies defendants' motion to dismiss plaintiff's gap-time claim pursuant to NYLL §§ 198(1-a), 663; (3) denies defendants' motion to dismiss plaintiff's N.Y. Civ. Serv. Law § 80 claim; and (4) grants defendants' motion to dismiss plaintiff's state law claims accruing before November 2, 2014.

SO ORDERED.

Dated: September 21, 2018
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE